

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

MARION MISIAK and
MARY BETH MISIAK,

Plaintiffs,

v.

No. 07 CV 6330

MORRIS MATERIAL HANDLING, INC., a
foreign corporation, d/b/a P&H Cranes, P&H
CRANES, individually and as a division of
Morris Material Handling, Inc., WHITING
CORPORATION, a foreign corporation,
HUBBELL INCORPORATED, a foreign
corporation, d/b/a Gleason Reel Corp., and
GLEASON REEL CORP., a foreign
corporation, a/k/a GRC International,
individually and as a division of Hubbell
Incorporated,

Defendants.

**MOTION TO COMPEL OR IN THE ALTERNATIVE
EXTEND DISCOVERY DEADLINES**

NOW COME the plaintiffs, MARION MISIAK and MARY BETH MISIAK, by and through their attorneys, ROMANUCCI & BLANDIN, and move this court to compel UNION TANK CAR COMPANY ("Union Tank") to produce the individual with the most knowledge of the work related incident for his or her deposition, or in the alternative, extend the discovery deadlines already set by this court, and in support thereof states as follows:

1. This is a complex negligence and product liability case arising out of catastrophic injuries sustained by the plaintiff MARION MISIAK, while he was working for Union Tank. The parties entered a scheduling order closing all fact discovery on February 15, 2009. The court has set this case for trial on October 26, 2009. However, to date little discovery has been done.

2. On or about April 11, 2008, pursuant to Fed.R.Civ.P. Rule 45, plaintiffs served a

subpoena upon Union Tank, requesting them to produce the person with the most knowledge of the incident giving rise to this cause of action for his or her deposition. See subpoena attached hereto as Exhibit "A".

3. Union Tank is represented by Mr. Timothy Hoffman of Sanchez, Daniels & Hoffman. There is an ongoing dispute between Union Tank and defendant MORRIS MATERIAL HANDLING, INC. ("Morris Material") involving an alleged violation of Rule 1.9 of the Illinois Rules of Professional Conduct and the Northern District of Illinois Local Rule 83.51.9(a). In short, Union Tank claims that the law firm of Johnson & Bell should be disqualified from representing Morris Material due to a conflict of interest. Union Tank's motion to disqualify is currently pending before this court, with a status hearing set for June 19, 2008. Plaintiffs are not involved in the motion.

4. Plaintiffs' counsel and Mr. Hoffman have amicably discussed Union Tank's pending motion and plaintiffs' subpoena pursuant to this court's local rules. Mr. Hoffman has indicated that, absent a court order, he is unable to produce the employee of Union Tank with the most knowledge of the incident due to Union Tank's pending motion to disqualify.

5. As a result, plaintiffs' are unable to move forward with their case, and will be prejudiced by the delay if the subpoena is not complied with in a timely manner.

6. In the alternative, due to the number of defendants, complexity of issues, and the small amount of discovery completed in this case to date, plaintiffs request an extension of the discovery deadlines to such a date or dates agreeable by all parties.

7. The affidavit of plaintiffs' counsel, Stephan D. Blandin, is attached hereto and incorporated herein as Exhibit "B".

WHEREFORE, the plaintiffs, MARION MISIAK and MARY BETH MISIAK, respectfully request this court to compel UNION TANK CAR COMPANY to produce the

individual with the most knowledge of the incident for his or her deposition, or in the alternative, extend the discovery deadlines already set by this court, and for any further relief this court deems just.

Respectfully submitted,

//s// Stephan Blandin
Attorneys for Plaintiff

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